

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SMART STUDY CO.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	20-cv-7889 (JSR)
	:	
BICHHA123, ET AL.,	:	
	:	
Defendants.	:	
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SMART STUDY CO.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	20-cv-7890 (JSR)
	:	
B+BABY STORE, ET AL.,	:	
	:	
Defendants.	:	
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ORDER

JED S. RAKOFF, U.S.D.J.

On September 24, 2020, based upon plaintiff's ex parte submissions, the Court made preliminary findings of fact and preliminary conclusions of law and issued a Temporary Restraining Order ("TRO") and related orders. See Sept. 24, 2020 Order (to be docketed). The Court also ordered the defendants to show cause why a preliminary injunction should not issue. See id.

On October 2, 2020, the Court held a hearing on the order to show cause. The Primrose Lane LLC ("Primrose") appeared through counsel; no other defendant did, although interested laypersons

affiliated with two corporate defendants participated in the teleconference. To provide defendants time to show cause why a preliminary injunction should not issue and to secure counsel, where applicable, the Court set subsequent hearings for October 9 (as to defendant Primrose only) and for October 16 (as to all other defendants). The Court extended the TRO and related orders until those dates. On October 8, 2020, plaintiff voluntarily dismissed its claims against certain defendants, including Primrose, and the Court cancelled the October 9 hearing regarding Primrose.

On October 16, 2020, the Court held a second hearing on the order to show cause as to the remaining defendants, but no defendant (other than Primrose) appeared. No defendant (other than Primrose) has filed a notice of appearance or any other document. Because the defendants remaining in this action have not shown cause as to why a preliminary injunction should not issue, the Court finds, based upon the same preliminary findings of fact and conclusions of law stated in its September 24, 2020 order, that Smart Study has demonstrated its entitlement to a preliminary injunction pending trial as to all remaining defendants.

As to former defendant Primrose, although Plaintiff has voluntarily dismissed its claims, a live controversy remains. Primrose argues that plaintiff wrongfully sought a TRO against Primrose, and that Primrose was thereby damaged and should recover

against the \$10,000 bond that the Court required plaintiff to post. The Court will permit Primrose to move for damages. Primrose must offer specific, detailed evidentiary submissions to demonstrate the damages that it claims.

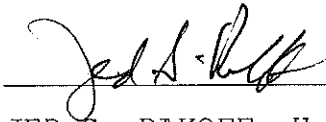
For these reasons and the reasons stated on the record at the hearing, see Oct. 16, 2020 Tr. (to be docketed), the Court orders as follows:

1. With respect to all remaining defendants, defendants having offered no evidence to the contrary, the Court adheres to its preliminary findings of fact and preliminary conclusions of law and, on that basis, converts the TRO into a preliminary injunction pending trial.
2. With respect to Primrose, the Court grants leave for it to file a motion for damages with evidence by no later than October 27, 2020. Plaintiff may respond by no later than November 3, 2020. Primrose may reply by no later than November 10, 2020. The Court will hear telephonic oral argument on the motion on November 18, 2020, at 4pm, using the same dial-in information used for the October 16, 2020 teleconference.
3. The remaining defendants are warned that if they do not timely appear and respond to the Complaint, then plaintiff may secure a default judgment against them, in which case

the Court would convert this preliminary injunction into a permanent injunction.

SO ORDERED.

Dated: New York, NY
October 16, 2020



JED S. RAKOFF, U.S.D.J.